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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,798	07/22/2003	William Stuart Gatley JR.	66745-8245	7478
7590	07/23/2004		EXAMINER	
Joseph M. Rolnicki Thompson Coburn LLP One US Bank Plaza St. Louis, MO 63101-9928			RINEHART, KENNETH	
			ART UNIT	PAPER NUMBER
			3749	

DATE MAILED: 07/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/624,798	GATLEY, WILLIAM STUART
	Examiner Kenneth B Rinehart	Art Unit 3749

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 22 July 2003.  
 2a) This action is FINAL.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-36 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 21-36 is/are allowed.  
 6) Claim(s) 1-20 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 22 July 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1)  Notice of References Cited (PTO-892)  
 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 010104.

4)  Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5)  Notice of Informal Patent Application (PTO-152)  
 6)  Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Double Patenting***

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Claims 2, 3, 4, 7, 8, 9, 16, 17, 19 and 20 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 3, 4, 5, 6, 7, 8, 13, 14, 1, and 2 of prior U.S. Patent No. 6,314,894. This is a double patenting rejection. 6314894 shows a body having a tubular exhaust transition, the exhaust transition being comprised of first and second sections and having first and second ends and a length therebetween; the first end being an inlet, the inlet being adjacent to the body; the second end being an outlet, the outlet being generally circular, and the first section being of single piece construction with the body and the second section being adapted and configured to attach to the first section to form the tubular exhaust transition and the circular outlet, the first end is generally rectangular and the exhaust transition changes from being generally rectangular at the first end to being generally circular at the second end as the exhaust transition extends from the first end to the second end (claim 3), the second section extends along the entire length of the exhaust transition from the inlet to the outlet and has an inlet end that is generally flat and forms a portion of the generally rectangular inlet (claim 4), the second section inlet end covers a back wall of the body and has an opening to allow air to flow into the

housing (claim 5), A furnace blower housing comprising: a body having a front wall and a back wall separated by a volute sidewall, the back wall having an opening that leads to a cavity in the body defined by the front and back wall and the sidewall, the cavity being configured and adapted to receive a fan that is rotated in the cavity to generate a flow of air through the housing, a throat in the body leading to an exhaust transition comprised of first and second sections, the exhaust transition forming an outlet, the first exhaust transition section being formed monolithically from the body and forming a first portion of the outlet; the second exhaust transition section forming a second portion of the outlet, the second exhaust transition section being complementary to the first exhaust transition section and configured and adapted to attach to the first exhaust transition section to form the exhaust transition and the outlet, and the flow of air exits the housing through the exhaust transition and the outlet (claim 6), the first and second transition sections form a generally circular outlet (claim 7), the first transition section is formed from the sidewall and the front wall of the body (claim 8), the exhaust transition extends axially away from the back wall as the transition section extends outwardly from the body so that the outlet is spaced from the back wall, the first transition section has opposite outlet and inlet ends and opposite side edges, the first transition section side edges having attachment members, the second transition section has opposite outlet and inlet ends and opposite side edges, the second transition section side edges having attachment members complementary to the first transition section attachment members, and the second transition section attaches to the first transition section along the first and second transition section attachment members (claim 13), the second transition section attachment members are crimped to the first transition section attachment members (claim 14), the steps of: providing the blower housing with an exhaust transition having

an inlet adjacent the housing, a circular outlet, and a length therebetween, the exhaust transition being comprised of first and second sections, forming the first section as a unitary piece of the housing, forming the second section complementary to the first section and adapted and configured to attach to the first section to form the exhaust transition and the circular outlet, and attaching the second section to the first section, the exhaust discharge is formed with a generally rectangular inlet and progressively changes from being generally rectangular at the inlet to being generally circular at the outlet (claim 1), attaching the second section to the first pipe section is further comprised of the step of crimping the second section to the first section (claim 2).

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4, 7-13, 15, 16, 18, 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Nakamura et al. Nakamura et al shows a body (2, fig. 1) having a tubular exhaust transition, the exhaust transition being comprised of first (42, fig. 1) and second sections (41, fig. 1) and having first and second ends and a length therebetween (fig. 1); the first end being an inlet, the inlet being adjacent to the body (fig. 1); the second end being an outlet, the outlet being generally circular (4b, fig. 1), and the first section being of single piece construction with the body (fig. 1) and the second section being adapted and configured to attach to the first section to form the

tubular exhaust transition and the circular outlet (fig. 1) the first end is generally rectangular and the exhaust transition changes from being generally rectangular at the first end to being generally circular at the second end as the exhaust transition extends from the first end to the second end (4a, fig. 1), the second section extends along the entire length of the exhaust transition from the inlet to the outlet and has an inlet end that is generally flat and forms a portion of the generally rectangular inlet (fig. 1, fig. 2b), the second section inlet end covers a back wall of the body and has an opening to allow air to flow into the housing (30, fig. 1), a body having a front wall and a back wall separated by a volute sidewall (below 2, 2, flange above 2, fig. 1) the back wall having an opening that leads to a cavity in the body defined by the front and back wall and the sidewall (fig. 1), the cavity being configured and adapted to receive a fan that is rotated in the cavity to generate a flow of air through the housing (20, fig. 1), a throat in the body (4a, fig. 1) leading to an exhaust transition comprised of first and second sections (fig. 1), the exhaust transition forming an outlet (fig. 1), the first exhaust transition section being formed monolithically from the body and forming a first portion of the outlet (42, fig. 1); the second exhaust transition section forming a second portion of the outlet (41, fig. 1), the second exhaust transition section being complementary to the first exhaust transition section and configured and adapted to attach to the first exhaust transition section to form the exhaust transition and the outlet (fig. 1), and the flow of air exits the housing through the exhaust transition and the outlet. (fig. 1), the first and second transition sections form a generally circular outlet (fig. 1), the first transition section is formed from the sidewall and the front wall of the body (42, fig. 1), the exhaust transition extends axially away from the back wall as the transition section extends outwardly from the body so that the outlet is spaced from the back wall (fig. 1), the second transition section has

opposite outlet and inlet ends and opposite side edges, the second transition section is substantially flat and generally parallel to the back wall at the inlet end and progressively curves outwardly between the opposite side edges as the second transition section extends from the inlet end to the outlet end to form the second portion of the generally circular outlet (41, fig. 1), the inlet end forms a back plate that attaches to the back wall and covers the opening in the back wall, the back plate having an opening to allow air to enter the cavity through the back plate opening (3, 30, fig. 1), the first transition section has opposite outlet and inlet ends and opposite side edges, the outlet end being the first portion of the outlet and the inlet end being part of the throat (42, fig. 1), the first transition section progressively curves outwardly between the opposite side edges as the first transition section extends from the inlet end to the outlet end to form the first portion of the generally circular outlet (fig. 1), the second transition section has opposite first and second ends and opposite side edges, the second transition section being substantially flat and generally parallel to the back wall at the second end and progressively curving outwardly between the opposite side edges as the second transition section extends from the second end to the first end to form the second portion of the generally circular outlet (41, fig. 1), the first transition section has opposite outlet and inlet ends and opposite side edges (42, fig. 1), the first transition section side edges having attachment members (fig. 2c), the second transition section has opposite outlet and inlet ends and opposite side edges (41, fig. 1), the second transition section side edges having attachment members complementary to the first transition section attachment members, and the second transition section attaches to the first transition section along the first and second transition section attachment members (fig. 2c, fig. 2b), providing the blower housing with an exhaust transition having an inlet adjacent the housing

(fig. 1), a circular outlet (4b, fig. 1), and a length therebetween (fig. 1), the exhaust transition being comprised of first and second sections (41, 42, fig. 1), forming the first section as a unitary piece of the housing, forming the second section complementary to the first section and adapted and configured to attach to the first section to form the exhaust transition and the circular outlet, and attaching the second section to the first section (fig. 1), the exhaust discharge is formed with a generally rectangular inlet (4a, fig. 1) and progressively changes from being generally rectangular at the inlet to being generally circular at the outlet (4b, fig. 1).

Claims 1, 5, 7-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Tsai. Tsai shows a body (fig. 2) having a tubular exhaust transition, the exhaust transition being comprised of first (lower 20, fig. 2) and second sections (upper 20, fig. 2) and having first and second ends and a length therebetween (fig. 2); the first end being an inlet, the inlet being adjacent to the body (fig. 2); the second end being an outlet, the outlet being generally circular (fig. 2), and the first section being of single piece construction with the body (fig. 2) and the second section being adapted and configured to attach to the first section to form the tubular exhaust transition and the circular outlet (fig. 2), a portion of the body adjacent the inlet is curved outwardly from the body as the portion extends towards the inlet (left 200, fig. 6), and the first section has opposite outlet and inlet ends (fig. 2), the outlet end forming a portion of the outlet and the inlet end being adjacent the body and forming a portion of the inlet, the inlet end curving outwardly from the body and being complementary to the curved body portion (above item D, fig. 6), a body having a front wall (23, fig. 3) and a back wall (211, fig. 3) separated by a volute sidewall (21, fig. 7), the back wall having an opening that leads to a cavity in the body defined by the front and back wall and the sidewall (210, fig. 3); the cavity being configured and adapted to

receive a fan that is rotated in the cavity to generate a flow of air through the housing (221, fig. 3); a throat in the body leading to an exhaust transition comprised of first and second sections (D, fig. 6), the exhaust transition forming an outlet (fig. 3); the first exhaust transition section being formed monolithically from the body and forming a first portion of the outlet (fig. 3); the second exhaust transition section forming a second portion of the outlet , the second exhaust transition section being complementary to the first exhaust transition section and configured and adapted to attach to the first exhaust transition section to form the exhaust transition and the outlet , the flow of air exits the housing through the exhaust transition and the outlet (fig.3), the first and second transition sections form a generally circular outlet (fig. 3), the first transition section is formed from the sidewall and the front wall of the body (fig. 3, fig. 6), the exhaust transition extends axially away from the back wall as the transition section extends outwardly from the body so that the outlet is spaced from the back wall (fig. 7), the second transition section has opposite outlet and inlet ends or first and second ends and opposite side edges (fig. 7), the second transition section is substantially flat and generally parallel to the back wall at the inlet end or second end and progressively curves outwardly between the opposite side edges as the second transition section extends from the inlet end or second end to the outlet end (fig. 7), the inlet end forms a back plate that attaches to the back wall and covers the opening in the back wall (fig. 2) , the back plate having an opening to allow air to enter the cavity through the back plate opening (201, fig. 7) , the first transition section has opposite outlet and inlet ends and opposite side edges , the outlet end being the first portion of the outlet and the inlet being part of the throat (fig. 2, fig. 7), the first transition section progressively curves outwardly between the opposite side edges as the first transition extends from the inlet end to the outlet end to form the first portion of the

generally circular outlet (fig. 7), a portion of the front wall forms a pretransition section adjacent the throat and the inlet end, the pretransition section progressively curves outwardly from the front wall as the pretransition section extends towards the throat and the inlet end (fig. 3, fig. 7, fig. 6), and a portion of the throat adjacent the pretransition section and a portion of the inlet end adjacent the throat are curved outwardly from the front wall and align with and are complementary to the pretransition section (fig. 7, fig. 6).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 17, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamura et al in view of Bookwalter. Nakamura discloses a body (2, fig. 1) having a tubular exhaust transition, the exhaust transition being comprised of first (42, fig. 1) and second sections (41, fig. 1) and having first and second ends and a length therebetween (fig. 1); the first end being an inlet, the inlet being adjacent to the body (fig. 1); the second end being an outlet, the outlet being generally circular (4b, fig. 1), and the first section being of single piece construction with the body (fig. 1) and the second section being adapted and configured to attach to the first section to form the tubular exhaust transition and the circular outlet (fig. 1) the first end is generally rectangular and the exhaust transition changes from being generally rectangular at the first end to being generally circular at the second end as the exhaust transition extends from the first end to the second end (4a, fig. 1), the second section extends along the entire length of the exhaust

transition from the inlet to the outlet and has an inlet end that is generally flat and forms a portion of the generally rectangular inlet (fig. 1, fig. 2b), the second section inlet end covers a back wall of the body and has an opening to allow air to flow into the housing (30, fig. 1), a body having a front wall and a back wall separated by a volute sidewall (below 2, 2, flange above 2, fig. 1) the back wall having an opening that leads to a cavity in the body defined by the front and back wall and the sidewall (fig. 1), the cavity being configured and adapted to receive a fan that is rotated in the cavity to generate a flow of air through the housing (20, fig. 1), a throat in the body (4a, fig. 1) leading to an exhaust transition comprised of first and second sections (fig. 1), the exhaust transition forming an outlet (fig. 1), the first exhaust transition section being formed monolithically from the body and forming a first portion of the outlet (42, fig. 1); the second exhaust transition section forming a second portion of the outlet (41, fig. 1), the second exhaust transition section being complementary to the first exhaust transition section and configured and adapted to attach to the first exhaust transition section to form the exhaust transition and the outlet (fig. 1), and the flow of air exits the housing through the exhaust transition and the outlet. (fig. 1), the first and second transition sections form a generally circular outlet (fig. 1), the first transition section is formed from the sidewall and the front wall of the body (42, fig. 1), the exhaust transition extends axially away from the back wall as the transition section extends outwardly from the body so that the outlet is spaced from the back wall (fig. 1), the second transition section has opposite outlet and inlet ends and opposite side edges, the second transition section is substantially flat and generally parallel to the back wall at the inlet end and progressively curves outwardly between the opposite side edges as the second transition section extends from the inlet end to the outlet end to form the second portion of the generally circular

outlet (41, fig. 1), the inlet end forms a back plate that attaches to the back wall and covers the opening in the back wall, the back plate having an opening to allow air to enter the cavity through the back plate opening (3, 30, fig. 1), the first transition section has opposite outlet and inlet ends and opposite side edges, the outlet end being the first portion of the outlet and the inlet end being part of the throat (42, fig. 1), the first transition section progressively curves outwardly between the opposite side edges as the first transition section extends from the inlet end to the outlet end to form the first portion of the generally circular outlet (fig. 1), the second transition section has opposite first and second ends and opposite side edges, the second transition section being substantially flat and generally parallel to the back wall at the second end and progressively curving outwardly between the opposite side edges as the second transition section extends from the second end to the first end to form the second portion of the generally circular outlet (41, fig. 1), the first transition section has opposite outlet and inlet ends and opposite side edges (42, fig. 1), the first transition section side edges having attachment members (fig. 2c), the second transition section has opposite outlet and inlet ends and opposite side edges (41, fig. 1), the second transition section side edges having attachment members complementary to the first transition section attachment members, and the second transition section attaches to the first transition section along the first and second transition section attachment members (fig. 2c, fig. 2b), providing the blower housing with an exhaust transition having an inlet adjacent the housing (fig. 1), a circular outlet (4b, fig. 1), and a length therebetween (fig. 1), the exhaust transition being comprised of first and second sections (41, 42, fig. 1), forming the first section as a unitary piece of the housing, forming the second section complementary to the first section and adapted and configured to attach to the first section to form the exhaust transition and the circular outlet,

and attaching the second section to the first section (fig. 1), the exhaust discharge is formed with a generally rectangular inlet (4a, fig. 1) and progressively changes from being generally rectangular at the inlet to being generally circular at the outlet (4b, fig. 1). Nakamura discloses applicant's invention substantially as claimed with the exception of the second section is attached to the first section to form the tubular exhaust transition by crimping the second section and the first section together, the second transition section attachment members are crimped to the first transition section attachment members. Bookwaller teaches the second section is attached to the first section to form the tubular exhaust transition by crimping the second section and the first section together, the second transition section attachment members are crimped to the first transition section attachment members (fig. 1) for the purpose of connecting the two sections together so the blower housing is structurally stronger. It would have been obvious to one of ordinary skill in the art to modify Nakamura by including the second section is attached to the first section to form the tubular exhaust transition by crimping the second section and the first section together, the second transition section attachment members are crimped to the first transition section attachment members as taught by Bookwaller for the purpose of connecting the two sections together so the blower housing is structurally stronger.

***Allowable Subject Matter***

Claims 21-36 are allowed.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth B Rinehart whose telephone number is 703-308-1722. The examiner can normally be reached on 7:30 -4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus can be reached on 703-308-1935. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KBR

*Kenneth Rinehart*  
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